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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,365	07/25/2003	David S. Thompson	MBT-11902/03	2464

25006 7590 10/06/2004

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BIRMINGHAM, MI 48009

EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 10/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/627,365

Applicant(s)

THOMPSON, DAVID S. 

Examiner

Bruce A. Lev

Art Unit

3634

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2,3,5 and 7-22 is/are allowed.
- 6) ☒ Claim(s) 1,4,6 and 23-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

BRUCE A. LEV
PRIMARY EXAMINER

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/29/03.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 23-27 are rejected under 35 U.S.C. 102(b) as being anticipated by

Allbritton 2002/0030183.

Allbritton sets forth a bar assembly comprising two bar sections 26 and 28; a hinge 29 pivotally connecting adjacent ends of the bar sections; and a connecting member (inclusive of members 71) capable of disconnecting upon impact allowing the bar sections to pivot relative to one another; and shear bolts (inclusive of member 126). The applicant should note that since a curtain is NOT set forth, within the claim language of these claims, as part of the invention, comparisons thereto are not given patentable weight.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 6, are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Kirkey et al 5,964,270 in view of Wartenbergh 6,397,921.***

Kirkey et al set forth a roll up door assembly comprising a flexible sheet having side edge portions 28 and 30 of greater thickness than the remaining portions forming a windbar assembly; a barrel; a pair of guide assemblies defining a vertical slot and opening. ***What Kirkey et al do not set forth*** is the windbar assembly narrowing the opening of the slot, nor the biasing means for biasing the windbar assembly to a slot narrowing position; and a bottom bar. However, ***Wartenbergh teaches*** the use of a windbar assembly 5 narrowing an opening of a slot of a guide member 4, and having spring biasing means (as illustrated in Figure 6) for biasing the windbar assembly to a slot narrowing position. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the assembly of Kirkey et al by incorporating a windbar assembly and spring biasing means, as taught by Wartenbergh, in order to increase the tension and rigidity of the sheet, while still allowing the edge(s) to be released upon impact.

Allowable Subject Matter

Claims 2, 3, 5, 7-22 are allowable over the prior art of record.

The following is an examiner's statement of reasons for allowance:

As concerns claims 2 and 11, structural limitations pertaining to the ***side edge portions*** each comprising ***front and rear strips*** being ***staggered*** in the *transverse* direction, along with the other structural limitations are neither taught nor suggested by the prior art of record.

As concerns claim 5, structural limitations pertaining to the ***spring assembly*** comprising a ***threaded rod, nut, and coil spring***, along with the other structural limitations are neither taught nor suggested by the prior art of record.

As concerns claims 7 and 19, structural limitations pertaining to the ***bottom bar*** comprising a ***hinge*** and ***two bottom bar sections*** *across the bottom of the sheet*; and the ***strap securing means*** *releasing upon impact to allow hinging of the bottom sections*, along with the other structural limitations are neither taught nor suggested by the prior art of record.

Conclusion

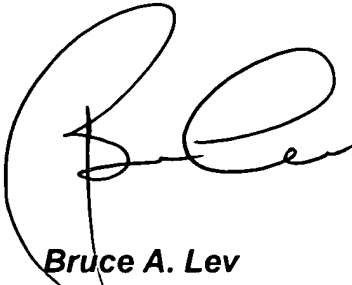
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

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Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

9/28/2004

A handwritten signature in black ink, appearing to read 'Bruce A. Lev'. The signature is stylized with a large, looping 'B' and a cursive 'Lev'.

Bruce A. Lev
Primary Examiner
Group 3600